

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:

JOHN C. TANIS, III

Debtor

JOHN C. TANIS, III

Plaintiff

v.

STEPHEN G. BRESSET, ESQ.

Defendant

Chapter 7

Case Number: 5-05-bk-54104-JJT

Adversary Number: 5-15-ap-00199-JJT

Document No.: 5

Nature of
Proceeding: Motion to Dismiss pursuant to
Rule 12(b)(6) and in the
alternative for a More Definite
Statement pursuant to Rule
12(e)

OPINION¹

The Debtor initiated this adversary proceeding by filing what he captioned as a “Motion to Stay Disbursements-New Evidence.” This 24 paragraph Complaint was met by a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) as made applicable to adversary proceedings by Federal Rule of Bankruptcy Procedure 7012.

In considering a motion to dismiss, the Rule is that “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations of the complaint.” *Phillips v. County of Allegheny*, 515 F.3d 224, 231 (3d Cir. 2008) *citing Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 127 S.Ct. 1955, 167 L.Ed.2d 929 at 1969 (2007). “Factual allegations must be enough to raise a right to relief above the speculative level” *Twombly*, 127 S.Ct. at 1965.

¹ Drafted with the assistance of Richard P. Rogers, Career Law Clerk.

In this regard, the Court will “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Phillips v. County of Allegheny*, 515 F.3d at 233 *citing Twombly*, 127 S.Ct. at 1969 n.8 and *Pinker v. Roche Holdings, Ltd.*, 292 F.3d 361, 374 n.7 (3d Cir. 2002).

The Defendant, Attorney Bresset, argues in his Motion and supporting brief that the Complaint, which is “virtually incomprehensible” and does not plead any recognizable cause of action against him as a responding party, should therefore be dismissed. The Court has reviewed the averments of the Complaint and has determined that it presents nothing more than a rambling, incoherent recitation of disjointed facts and conclusions of law.

Based upon that review, the Court agrees with the position of the Defendant and will enter an Order dismissing the above-captioned adversary.

My Order will follow.

By the Court,



John J. Thomas, Bankruptcy Judge
(CMS)

Date: March 28, 2016